

DORCHESTER HOUSE ASSOCIATES LIMITED PARTNERSHIP v. DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION, 938 A. 2<sup>nd</sup> 696 (2008)

Court: D.C. Court of Appeals, opinion by Thompson, J.

Judicial History: Owner of rent-controlled apartment building filed capital improvement petition to increase rent ceilings. A Department of Consumer and Regulatory Affairs (DCRA) ALJ approved the petition, but the Rental Housing Commission (RHC) reversed. Owner petitioned for review.

Facts: Dorchester House Associates Limited Partnership (“Dorchester”) filed a capital improvement petition with the Rent Administrator of the Department of Consumer and Regulatory Affairs (“DCRA”), seeking an increase in the rent ceiling for units in an apartment building owned by Dorchester. A DCRA administrative law judge (“ALJ”) approved the petition, but the D.C. Rental Housing Commission (the “RHC” or the “Commission”) reversed the ALJ’s ruling. Dorchester petitioned for review of the decision, contending that the decision was inconsistent with the Rental Housing Act insofar as it required a pre-petition inspection of all rental units in the apartment building – the basis for a statutory presumption that the building was in substantial compliance with the housing code – as a condition of approval of Dorchester’s capital improvement petition. Dorchester also contended that the RHC decision should not be given effect because it upset Dorchester’s expectations based on the Rent Administrator’s customary practice in reviewing and approving capital improvement petitions.

Holding: The Court of Appeals held that:

- 1.) RHC did not have authority to require owner to have a complete inspection of its units in the 30-day period prior to filing petition to increase rent ceilings, as such was one of two options under the Rental Housing Act to demonstrate compliance with housing code;
- 2.) RHC could require the Rent Administrator to make a finding that owner’s rent-controlled apartment building was in substantial compliance with the housing code before approving a rent ceiling adjustment;
- 3.) RHC could require inspection of all or substantially all of the rental units in owner’s building within the 30-day pre-petition period as a condition of applying the presumption of housing code compliance, when owner filed emergency capital improvement petition; and
- 4.) owner would be given an opportunity to present evidence as to apartment building’s substantial compliance with the housing code without requiring verification by the Housing Inspection Division, as owner was not on notice the RHC’s policy had changed.

Reasoning:

- 1.) When the interpretation of a statute is at issue in the appeal of an agency decision, both the agency and the court must look first to the plain and ordinary meaning of the statute, because normally that is the meaning intended by the legislature.
- 2.) The Court of Appeals will sustain the Rental Housing Commission’s (RHC) interpretation of the statutes it administers and the regulations it promulgates unless it is unreasonable or embodies a material misconception of the law, even if a different interpretation also may be supportable unless the challenging party can show that the RHC’s interpretation is plainly wrong or incompatible with the statutory purpose.